

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte DIMITRIS KATSAMBERIS, JOHN G. FINCH,  
JOSEPH A. ELMER and PATRICK A. SULLIVAN

Appeal No. 2005-1643  
Application No. 09/747,250

ON BRIEF

Before KIMLIN, OWENS and JEFFREY T. SMITH, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 8, 22-32 and 34. Claims 1-4, 9-11, 16-21 and 33 stand withdrawn from consideration. Claim 8 is illustrative:

8. An article having on at least a portion of a surface a multi-layer coating comprising:

a layer comprised of polymer on said surface of said article;

a color and protective layer comprised of refractory metal compound or refractory metal alloy compound on said layer comprised of polymer and

a layer comprised of the reaction products of (i) refractory metal or refractory metal alloy, (ii) oxygen and (iii) nitrogen on said layer comprised of refractory metal compound or refractory metal alloy compound.

The examiner relies upon the following references as evidence of obviousness:

|                                  |           |               |
|----------------------------------|-----------|---------------|
| Dewey                            | 4,143,009 | Mar. 6, 1979  |
| Welty et al. (Welty)             | 6,132,889 | Oct. 17, 2000 |
| Simmons, Jr. et al.<br>(Simmons) | 6,154,311 | Nov. 28, 2000 |
| Meckel                           | 6,196,936 | Mar. 6, 2001  |

Appellants' claimed invention is directed to an article having a color and protective coating and a polymer layer between the protective coating and the surface of the article. The color and protective layer may provide decoration to an article of brass, such as a faucet, doorknob, etc. According to appellants, the polymer sublayer replaces the cumbersome and expensive nickel base coat of the prior art.

Appealed claims 8, 22-24, 26-28, 30-32 and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Welty in view of Simmons. Claim 25 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Welty in view of Simmons and Dewey,

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whereas claims 28 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Welty in view of Simmons and Meckel.

Appellants do not separately group the claims on appeal. Accordingly, the groups of claims separately rejected by the examiner stand or fall together. For instance, claims 22-24, 26-28, 30-32 and 34 stand or fall together with claim 8.

We have thoroughly reviewed each of appellants' arguments for patentability. However, we are in complete agreement with the examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of § 103 in view of the applied prior art. Accordingly, we will sustain the examiner's rejections for the reasons set forth in the Answer, which we incorporate herein, and we add the following for emphasis only.

Appellants do not dispute the examiner's factual determination that Welty discloses an article having the presently claimed color and protective layer comprised of a refractory metal compound, and a layer comprised of the reaction products of a refractory metal, oxygen and nitrogen on the protective layer, as well as a nickel layer between the article surface and the protective layer that provides improved corrosion protection and functions as a leveling layer that covers

imperfections in the substrate. While Welty does not disclose the claimed polymer layer as an alternative for the disclosed nickel layer, we concur with the examiner that Simmons evidences the obviousness of replacing the nickel layer of Welty with a polymer layer. Simmons expressly discloses the use of an organic polymer layer as a viable alternative to the electroplated metal layer of copper or copper/nickel. Accordingly, based on the collective teachings of Welty and Simmons, we are confident that it would have been obvious for one of ordinary skill in the art to substitute the claimed polymer layer for the nickel layer of Welty with the expectation of reducing cost while maintaining scratch and corrosion resistance and leveling properties. Significantly, Simmons teaches that the polymer sublayer may be beneath a refractory layer of zirconium or titanium.

We do not subscribe to appellants' position that Simmons is non-analogous to Welty and the present invention since "Simmons is directed to an ultraviolet reflective photo catalytic dielectric combiner that oxidizes bacteria and contaminants to provide a self-cleaning, self-sanitizing, and self-deodorizing surface" (page 4 of principal brief, second paragraph). While appellants contend that Simmons is far removed from the field of protective and decorative coatings to which Welty and appellants

are directed, the examiner correctly explains that Simmons "also discloses that the invention is concerned with providing a decorative article with the desired scratch (abrasion) resistance and corrosion resistance (column 2, lines 48-51)" (page 7 of Answer, first paragraph). Simmons expressly discloses that the invention is directed to "[a]rticles such as costume jewelry, television antennas, luggage latches, trophies, lighting fixtures, watches, plumbing fixtures, door hardware, automotive wheels, washing machine and dryer dials, and the like" (column 2, lines 29-33). The fact that the coating of Simmons also provides self-cleaning, self-sanitizing and self-deodorizing does not negate that Simmons entails analogous art with respect to decorative articles comprising layers of refractory metal.

We also do not agree with appellants that Simmons is not reasonably pertinent to appellants' problem of replacing the cumbersome, expensive sublayer of nickel. As noted by the examiner, Simmons "discloses that the interest in replacing the electroplating process in decorative applications is not new (column 2, lines 45-48)" (page 7 of Answer, second paragraph).

Appellants maintain that "[t]here is no support in Simmons that indicates the use of the polymer layer would satisfy all of the problems solved by using the nickel layer of Welty or that

indicates the polymer layer performs in any way better than the structure already provided by Welty" (page 5 of principal brief, penultimate paragraph). However, it is not necessary for a finding of obviousness that Simmons teach that the polymer sublayer performs better than a sublayer of nickel or copper/nickel. It is sufficient that Simmons teaches that the polymer layer is a viable alternative to the metal layer. For that matter, appellants have proffered no objective evidence which demonstrates that the claimed polymer layer is better than the structure provided by Welty.

As for the separate rejections of claims 25 and 28-29, appellants' arguments have been adequately answered by the examiner.

As a final point, we note that appellants base no argument upon objective evidence of nonobviousness, such as unexpected results, which would serve to rebut the prima facie case of obviousness established by the examiner.

In conclusion, based on the foregoing and the reasons well-stated by the examiner, the examiner's decision rejecting the appealed claims is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv) (effective Sep. 13, 2004; 69 Fed. Reg. 49960 (Aug. 12, 2004); 1286 Off. Gaz. Pat. Office 21 (Sep. 7, 2004)).

AFFIRMED

*Edward C. Kimlin*  
EDWARD C. KIMLIN )  
Administrative Patent Judge )  
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